

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

DANA TOWNSEND, as the personal)
representative of WRONGFUL DEATH)
ESTATE OF CHARLES SPARKS,)
deceased,)

Plaintiff,)

v.)

Case No. 1:20-cv-2191

LIBERTY MUTUAL)
INSURANCE COMPANY,)
Defendant.)

NOTICE OF REMOVAL

Defendant, Liberty Mutual Insurance Company (“Liberty Mutual”), pursuant to 28 U.S.C. § 1441 and § 1446, hereby files its Notice of Removal of a civil action to the United States District Court for the Southern District of Indiana, Indianapolis Division, from the Superior Court of Marion County, Indiana and, in support thereof, respectfully states:

1. Liberty Mutual is the named Defendant in an action filed in the Superior Court of Marion County, Indiana, Cause No. 49D11-2007-CT-024564, styled *Dana Townsend, as the Personal Representative of wrongful death estate of Charles Sparks, deceased v. Liberty Mutual Insurance Company*. Said action was initiated by the filing of a Complaint on July 23, 2020, with service initiated by certified mail on July 24, 2020 and received by Liberty Mutual on July 29, 2020.

2. Plaintiff’s decedent, Charles Sparks, was at the time of the accident at issue in said action, a citizen of the State of Indiana, having been domiciled in Indianapolis, Indiana. (Appendix, Complaint for Damages, ¶ 1).

3. Charles Sparks died as a result of injuries sustained in said accident and Plaintiff, Dana Townsend, has been appointed as the Personal Representative of the Wrongful Death Estate of Charles Sparks. (Appendix, Complaint for Damages, ¶¶ 2-3).

4. Plaintiff, Dana Townsend, was at the time of the commencement of said action, and presently is, a citizen of the State of Indiana, being domiciled in Indianapolis, Indiana. (Appendix, Complaint for Damages, ¶ 4).

5. Liberty Mutual was at the time of the commencement of said action, and presently is, a citizen of a State other than Indiana, being a corporation incorporated in the Commonwealth of Massachusetts, with its principal place of business in Boston, Massachusetts.

6. Thus, the controversy in said action is entirely between citizens of different states of the United States, and Liberty Mutual desires to remove said action from the Superior Court of Marion County, Indiana, to the United States District Court for the Southern District of Indiana, Indianapolis Division.

7. The Complaint alleges that Charles Sparks was a pedestrian struck by a motor vehicle operated by Brittany Brummett on August 7, 2019 and that he sustained personal injuries ultimately leading to his death on August 12, 2019. (Appendix, Complaint for Damages, ¶¶ 8-9, 12). The Complaint further alleges that the motor vehicle operated by Brittany Brummett was uninsured at the time of the accident. (Appendix, Complaint for Damages, ¶ 13).

8. The Complaint further alleges that at the time of the accident, Charles Sparks maintained an automobile insurance policy issued by Liberty Mutual, that said policy provided uninsured motorist insurance coverage and that Liberty Mutual has paid to the Estate of Charles Sparks \$250,000 under said policy. (Appendix, Complaint for Damages, ¶¶ 14, 18). It further alleges that at the time of the accident, Charles Sparks maintained an umbrella insurance policy

issued by Liberty Mutual, that said policy included uninsured motorist insurance coverage and that Liberty Mutual rejected the Plaintiff's demand for \$2 million in said coverage, breaching said policy. (Appendix, Complaint for Damages, ¶¶ 16, 19-20).

9. The Complaint further alleges that Charles Sparks requested an umbrella policy be issued by Liberty Mutual for his benefit in the amount of \$2 million and that Liberty Mutual failed to insure him with an umbrella policy applicable to uninsured motorist claims and/or inform him or Dana Townsend that the umbrella policy issued by Liberty Mutual did not provide such coverage. (Appendix, Complaint for Damages, ¶¶ 26-27, 32).

10. The Complaint further alleges that Liberty Mutual owed a duty of reasonable care and skill to Charles Sparks and Dana Townsend in obtaining insurance and following the intentions or instructions thereof and owed a duty to advise Charles Sparks and Dana Townsend regarding the adequacy of coverage, and that Liberty Mutual breached these duties. (Appendix, Complaint for Damages, ¶¶ 33-37).

11. In light of Plaintiff's claim for (a) contract benefits with an alleged available limit of \$2 million and (b) claimed compensatory damages for alleged negligence of Liberty Mutual, there is a reasonable probability that the amount in controversy between Plaintiff and Liberty Mutual exceeds \$75,000 exclusive of costs and interest. Therefore, the Court has original jurisdiction under 28 U.S.C. § 1332 over the claims asserted by Plaintiff against Liberty Mutual. Meridian Security Ins. Co. v. Sadowski, 441 F.3d 536 (7th Cir. 2006); Spivey v. Vertrue, Inc., 528 F.3d 982 (7th Cir. 2008).

12. The Appendix includes a copy of all pleadings and orders served on Liberty Mutual in the state court action.

13. Upon receiving a file-marked copy of this Notice of Removal, Liberty Mutual will serve a file-marked copy of this Notice of Removal upon counsel for Plaintiff and file a copy of this Notice of Removal with the Clerk of the Superior Court of Marion County, Indiana.

Respectfully submitted,

KIGHTLINGER & GRAY, LLP

By: s/ Casey R. Stafford
Casey R. Stafford, ID No. 27355-49
Attorneys for Defendant
Liberty Mutual Insurance Company

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on August 20, 2020, a copy of the foregoing was served on the following via the court's electronic filing system:

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